

REMARKS

Originally-presented claims 2-6 and newly-presented claims 11-15 are pending in this application.

Claims 2-6 are withdrawn from consideration.

Originally presented claims 1 and 7-10 have been canceled.

Originally-presented claim 1 was rejected as anticipated by USP 4,815,618 to Gach, originally-presented claims 7, 8 and 10 were rejected as unpatentable over the Gach patent in view of USP 6,076,334 to Kitahora et al and USP 6,082,568 to Flanagan, and originally-presented claim 9 was rejected as unpatentable over the Gach patent in view of the Kitahora et al patent and the Flanagan patent and further in view of USP 4,141,680 to Kauffman et al.

Reconsideration of newly-presented claims 11-15 is respectfully requested.

Gach patent 4,815,618 is discussed in the text of the present specification at page 6, lines 10-21.

The Examiner asserts that Gach teaches a thin-walled bottle. The term "thin-walled" as used in this invention is defined in the specification at page 8, commencing on line 19, as a container having a wall thickness of 2mm or less, and preferably within the range 0.1mm to 1.0mm.

Since the Gach container is described as being useful for non-prescription drugs and other consumable products which may be ingested, the reader of the Gach specification would anticipate that the Gach container is made of glass, this being the material that was typically used for such containers at the April 25, 1988 filing date of the Gach application. In addition, the Gach drawings themselves indicate containers having a substantial wall thickness.

It is highly improbable that the Gach container is the type of container that is now used for fluids such as milk, since a thin fluid/milk container does not provide the consumer with the necessary security or perceived protection for the contents of the container, as is required in Gach.

The Examiner's attention is also drawn to the earlier Gach patent 4,682,702. Likewise, this patent shows a container which can not reasonably be described as being a thin-walled container within the context of the present specification. Note that neither of these two Gach specifications specifically address fluid containers.

In order to differentiate the container of the present invention more clearly from Gach and other references, the term "non-gas-tight" has been used to qualify the material of the bottle body. This term serves to patentably distinguish the extrusion-blow-moulded bottle-bodies discussed in the present specification from injection-stretch-blow-moulded bodies that are designed for pressurized containers, such as are discussed in EP 0126575A by D MacLauchlin and WO 96/39329 by Valyi.

In the present specification, as filed, it is made clear on page 1, line 13 that the present invention is only concerned with fluids that are not required to be packed in a pressurized manner. "Non-gas-tight" is a term that reflects this limitation.

Carbonated drinks for example are pressurized to 4 bar by the addition of four liters of gas for every liter of liquid. In order for the carbonation to remain dissolved in the liquid, the body of the container must be gas-tight. A person skilled in the art will appreciate that this means that the container must be made of a material that is not only impermeable to gas, but which also has no seams, as seams tend to fail under pressure.

The present invention relates only to non-gas-tight bottle/container bodies. Extrusion-blow-moulding of the present invention provides seams where the parison is pinched between mould halves. The plastic materials used in the present invention, such as HDPE or PP, are also significantly gas permeable.

It will be appreciated that Gach is concerned solely with a tamper proof closure, and Gach fails to teach the use of a non-gas-tight container that is extrusion-blow-moulded, to thereby provide a thin-walled and non-gas-tight bottle body.

When the Examiner rejects claims of this application as unpatentable, the Examiner presents a combination of references that lack credibility when the teaching of Gach is limited to what Gach truly disclosures to those of skill in the art.

The Kitahora patent concerns machinery relating to injection-stretch-blow-moulding, as opposed to extrusion-blow-moulding. It is clear that the machinery of Kitahora is not suitable for extrusion-blow-moulding since the material specified in Kitahora is PET ISBS. Since Kitahora does not, as the Examiner perceives, teach extrusion-blow-moulding, and since Gach does not teach a thin-walled bottle, the combination of these two patents, even when the Flanagan patent is added, fails to teach the whole of the present invention as presently claimed.

The distinction between extrusion-blow-moulding and injection-stretch-blow-moulding is brought out in the present specification at page 3, line 19-20, and this distinction is well understood by those skilled in these different arts. The two moulding techniques, despite sharing the blow-moulding description, are used in entirely different applications, and with different materials.

The Flanagan patent is primarily concerned with the peeling of a foil from the bottles that are discussed in the Flanagan specification, these bottles normally being extrusion-blow-moulded from polypropylene that would tend to have a thick wall section.

The Kauffman patent provides an example of one of the known types of rotary machines. Since the Kauffman specification itself acknowledges that wheel blow moulding machinery is known in the art, this disclosure adds no additional teaching that is of value in rendering the present claimed invention either anticipated or unpatentable.

In summary, it is respectfully submitted that the Examiner's citations, when taken alone or when taken in combination, do not anticipate or render obvious the newly presented claims of this application.

No claim related fees are believed to be due with this response. In the event any such fees are due, please debit Deposit Account 08-2623.

The application now appearing to be in form for allowance, reconsideration and allowance thereof is respectfully requested.

Respectfully submitted,

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